

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street  
San Francisco, CA 94105**

**INITIAL STATEMENT OF REASONS**

**Communications Equipment Insurance Agent License**

**RH02026113**

**February 23, 2004**

**INTRODUCTION**

Pursuant to the authority vested in him by the California State Legislature in Assembly Bill 2856 (Chapter 437, Statutes of 2002), as specifically codified in Insurance Code sections 1758.6 through 1753.693, Insurance Commissioner John Garamendi ("the Commissioner") proposes to add sections 2194 through 2194.8 of Article 11 to Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations (CCR), regarding the requirements for a new category of production agency license, the Communications Equipment Insurance Agent License.

Existing law makes it a crime to act or assume to act in a capacity for which a production agency license is required without having such a license. Assembly Bill 2856 (Chavez) of 2002 (Chapter 437, Statutes of 2002), effective January 1, 2003, added Article 16.1, commencing with section 1758.6, to Chapter 5 of Part 2 of Division 1 of the Insurance Code, creating a new category of production agency license and expanding the scope of activities for which a license is required. Thus, this addition to the Insurance Code expands the scope of an existing crime. Regulations are necessary to advise applicants of the requirements for the Communications Equipment Insurance Agent License and to establish the guidelines and fees necessary for the acceptance of applications by the Department of Insurance ("Department").

Emergency regulations were first adopted and approved by OAL to be effective July 11, 2003. These emergency regulations were re-adopted and received approval by OAL to be effective November 10, 2003. During the phase of these permanent regulations, the Department will seek a second re-adoption of the emergency regulations.

Critical operational concerns have resulted in unanticipated delays in promulgating permanent regulations. The lower than expected number of application and the consequent revenue shortfall has caused the Department's Licensing Services Division to re-evaluate the application process, along with a continued assessment of internal and State budget concerns.

Additionally, telephone inquiries from the public concerning the regulations appear to attempt to expand the statute and regulation outside the intended scope, including roadside service. Roadside service is construed to be part of a motor club service and those intending to do such business have been advised to look into motor club licensing currently required by the Department of Insurance. Those attempting to cover communications equipment under the guise

of membership clubs have been advised to apply for the Communications Equipment Insurance License because the effect and scheme fall directly under the elements of insurance.

While the Department anticipates that many issues will be resolved through public hearing, the public hearing may also raise additional problem areas. The Department also anticipates that it may have to forecast some problem areas in order to incorporate additional consumer protections and licensing requirements into the permanent regulations.

## **SPECIFIC PURPOSE AND REASONABLE NECESSITY OF REGULATION**

The purpose of this regulation is to implement, interpret, and make specific the provisions of Insurance Code, Division 1, Part 2, Chapter 5, sections 1758.6 through 1758.693, licensing communications equipment insurance agents. The statute also imposes certain requirements on the licensees and endorsees with respect to training and other related matters. This regulation details requisite forms and filing requirements.

This regulation is intended to comply with the operational mandate as articulated in Insurance Code section 1758.693.

The specific purpose of each adoption and the rationale for the Commissioner's determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed are set forth below.

### **SECTION 2194. AUTHORITY AND PURPOSE**

This section cites the authority under which the Insurance Commissioner is acting and under which the proposed regulations are promulgated. It also sets forth the scope of the regulations. The Communications Equipment Agent License is limited only to communications equipment and communications equipment vendors as defined in Insurance Code section 1758.69.

#### **SECTION 2194.1. DEFINITIONS**

This section provides specific definitions for terms used in Department of Insurance licensing applications that are in general use and that now have the added category of "Communications Equipment Agent." The definitions included in the regulation -- "insurer," "franchise," and "organization" -- supplement definitions articulated in AB 2856 and codified in Insurance Code section 1758.69. The regulation definitions provide applicants the means to distinguish the necessary licensing application forms and the scope of the licensing.

#### **SECTION 2194.2. APPLICATIONS**

This section sets forth the requirement of licensing for persons or entities intending to act as a communications equipment insurance agent. The provisions relate to and are consistent with already established procedures for other licensing categories.

### SECTION 2194.3. FEES

This section establishes the licensing fees. The fees are currently set at \$225 for both the initial license application and the renewal. Fees must be paid at time of filing and are necessary to offset the administrative expense to the Department of Insurance to implement and maintain this new category of licensing as required under AB 2856 and codified in Insurance Code section 1758.62. This regulation section also provides that costs charged by the Department of Insurance for any enforcement action or investigations shall be paid by the licensee, in addition to the application or renewal filing fee.

### SECTION 2194.4. DISCLOSURE

This section further clarifies the requirements of Insurance Code section 1758.66 concerning conditions of sale and written information that must be provided to the prospective customer. Brochures and other materials must indicate full identification of the licensee doing business, including an approved true or fictitious name, location of the transaction, and the name of the insurer providing the insurance being offered. All disclosures required by section 1758.66 must be written clearly and conspicuously. In addition to material contract terms, costs, contact information of the licensee, the transactor must also provide the Department of Insurance toll-free consumer hotline.

### SECTION 2194.5. TRAINING

Department of Insurance licensees are required to comply with a continuing education requirement. This section and Attachment F outline the required training elements for training as a Communications Equipment Insurance Agent licensee or an endorsee. Further, the Department of Insurance generally requires the applicant to submit of training materials for prior approval. This section specifies an exemption for training materials that have been developed by a licensed fire and casualty broker-agent and previously approved by the Department of Insurance.

### SECTION 2194.6. RECORDS

This section clarifies Insurance Code section 1758.63 as it pertains to record maintenance and retention, including the place where records shall be kept. This section further speaks to production of records for examination by the Commissioner.

### SECTION 2194.7. FORMS

This section enumerates the forms required for the application process and the availability of such forms through the Department of Insurance:

(a) The written application for licensure shall be made on Form 441-9 (Rev 01/2003) for individuals and on Form 441-11 (Rev 01/2003) for organizations.

(b) The initial certification of authorized employees shall be made on form Lic. CV 1 (Rev 12/2002).

(c) The annual certification of authorized employees shall be made on form Lic. CV 2 (Rev 12/2002).

(d) The insurer certification shall be made on form Lic. CV 3 (Rev 12/2002).

(e) Training materials submitted to the Commissioner shall contain all of the elements set forth in form Lic. CV 4 (Rev 12/2002).

(f) The list of authorized endorsees shall be made on form Lic. CV 5 (Rev 12/2002). The list shall be maintained in a format capable of transmission to the Commissioner electronically and in hard copy or diskette, however requested by the Commissioner pursuant to Section 2194.6(c) above. The electronic version shall be transmitted in commercial word-processing or spreadsheet form. When requested, the list shall be updated to include endorsees newly authorized up to thirty (30) days before the mailing date of the request, and shall include the dates upon which each endorsee's authorization began and, if relevant, terminated. It shall then be transmitted as an attachment to e-mail or by regular mail in hard copy or diskette, as requested. The appropriate e-mail and regular mailing addresses shall be posted by the Department on its website at <http://www.insurance.ca.gov>.

## SECTION 2194.8. PROCEDURES

The application review guidelines and licensing time frames are set forth in this section. The criteria applies to procedures employed by the Commissioner in considering and issuing licenses, including:

(1) If the application is deficient, the Commissioner shall, within twenty-one (21) days of receipt of the license application, inform the applicant, in writing, that the application is deficient and what specific information is required for completion. Absent notice of a deficiency, the application is deemed complete at the date of filing.

(2) The Commissioner shall, within thirty (30) calendar days of filing of a completed application, reach a decision whether to issue or deny a license, and shall notify the applicant of the decision. If the Commissioner has decided to deny the application, the reason(s) therefor shall be set forth in the notification.

The periods set forth above shall be tolled in the event the application requires legal action by the Commissioner.

## **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

Adoption of these regulations would not mandate the use of specific technologies or equipment.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS**

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this article.

## **ALTERNATIVES**

No alternatives were presented to or considered by the Commissioner. The dollar amount for the fees were based on reasonable estimates to implement the licensing requirements.

## **ECONOMIC IMPACT ON SMALL BUSINESS**

The Commissioner has not identified any alternatives that would lessen any adverse impact on small business. To the extent that these regulations provide for an optional insurance product line to vendors that choose to market Communications Equipment Insurance, the economic impact is a cost-benefit choice to be made by an individual business.

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

To the extent that these regulations provide for an optional insurance product line to vendors that choose to market Communications Equipment Insurance, the economic impact is a cost-benefit choice to be made by an individual business – large or small.